

MAY 12 2017

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION

JULIA S. DUDLEY, CLERK
BY: 
DEPUTY CLERK

UNITED STATES OF AMERICA)

v.)

EDDIE DEAN FLUKER,)

Petitioner.)

Case No. 1:92CR00031

By: Michael F. Urbanski
United States District Judge

ORDER

For the reasons set forth in the accompanying memorandum opinion, the court

ORDERS as follows:

- (1) Petitioner Eddie Dean Fluker's habeas corpus petition, ECF Nos. 50, 57, 78, is **GRANTED**, and the United States' motion to dismiss, ECF Nos. 67, 81, is **DENIED**.
- (2) Petitioner's sentence on Counts One, Two, and Three imposed pursuant to the Armed Career Criminal Act is **VACATED**.
- (3) Petitioner will be resentenced on a date to be determined by the Clerk. Counsel are **DIRECTED** to contact the Clerk to schedule a sentencing hearing. As Fluker has consented to his resentencing by videoconference, the Clerk and the Bureau of Prisons are **DIRECTED** to facilitate Fluker's appearance at his sentencing by videoconference.
- (4) An expedited Amended Presentence Investigation Report **SHALL** be prepared in advance of sentencing reflecting this Court's ruling and without application of the Armed Career Criminal Act. Any objections to the Amended PSR shall be filed no later than seven days prior to resentencing.
- (5) Counsel are **DIRECTED** to file sentencing memoranda seven (7) days prior to resentencing.

The Clerk is **DIRECTED** to file this Order and provide copies to counsel and the United States Probation Office.

It is **SO ORDERED**.

Entered: 05-12-2017

/s/ Michael F. Urbanski

Michael F. Urbanski
United States District Judge